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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,269	04/13/2004	Johannes Kocher	16690	3482

43935 7590 10/09/2007  
FRASER CLEMENS MARTIN & MILLER LLC  
28366 KENSINGTON LANE  
PERRYSBURG, OH 43551

EXAMINER
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COLON SANTANA, EDUARDO

ART UNIT	PAPER NUMBER
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2837

NOTIFICATION DATE	DELIVERY MODE
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10/09/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

miller@fraser-ip.com  
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## Office Action Summary

Application No.

10/823,269

Applicant(s)

KOCHER ET AL.

Examiner

Eduardo Colon Santana

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1: ☒ Certified copies of the priority documents have been received.
- 2: ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3: ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action

**DETAILED ACTION**

1. Applicant's amendments filed on 6/08/2007 have been received and entered in the case.
2. Applicant's amendments with respect to claims 1, 10 and 12 have been considered but they are not persuasive.

***Drawings***

3. The annotated sheets of drawings were received on 6/08/2007. These annotations are acceptable. In addition to the annotated sheets of drawings, applicant is required to submit a clean version of Replacement Sheets containing the corrected annotations. See 37 CFR 1.121(d)(1). Failure to timely submit the replacement sheet of drawing will result in the abandonment of the application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gagnon et al. U.S. Patent No. 5,086,881.

Referring to claims 1, 2 and 12, Gagnon et al. discloses an elevator driven by a flat linear motor as claim (see all figures and respective portions of the specification). Gagnon further discloses in figures 1-3, a drive having a linear motor (12) that includes a

Art Unit: 2837

secondary part (28) positioned between a first primary part (30) and second primary part (32), wherein the primary parts are movable relative to one another (see figures 2 and 3), and where a compensating means (68) carries the primary parts and acts by a compensating normal force against an attractive normal force between each of the primary parts (30, 32) and the secondary part (28) (see Col. 2, lines 50-53; Col. 3, lines 40-51 and figures 1-6).

As to claims 3, 4 and 7, Gagnon et al. discloses a primary assembly together with the primary parts in which at least one guide element (70, 72) having an attached setting means to guides the drive along the secondary part and in addition move the guide elements closer or farther to the secondary element. Furthermore, Gagnon discloses that brake elements are inherently included in the linear motor (see Col. 2, lines 45-47 and Col. 5, lines 41-47). Moreover, the setting elements do not move the compensation means (68) towards or away from the secondary part.

Referring to claim 5, Gagnon et al. discloses that each guide roller is utilized to maintain an air gap between each primary element (30, 32) and the secondary element (28) (see Col. 3, lines 37-39, lines 44-47).

As to claim 6, it is well-known in the art of linear motors used in elevator systems that the width of the air gaps is at a maximum and that the attractive normal force is small when the guide elements guides the drive (primary parts) into contact with the secondary part

Art Unit: 2837

and vice versa if the brake elements keep the drive (primary parts) in contact with the secondary part.

Referring to claim 9 it is well known in the art to stack more than one linear motor in series in an elevator shaft.

As to claims 10 and 11, the method steps are inherent in the product structure of claims 1 and 6 above. Further discussion is omitted.

Referring to claim 13, Gagnon et al. discloses in figure 1, an elevator car (14) and a drive that drives a counterweight (34) directly.

As to claim 14, Gagnon et al. depicts from figure 1, an elevator car (14) and the counterweight (34) are connected by way of at least one rope (16), wherein the drive moves the elevator and the counterweight with a 2:1 slinging.

Referring to claim 15, Gagnon depicts from figure 1, a secondary part (28) extending over the entire length of a shaft.

#### ***Allowable Subject Matter***

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

6. Applicant's arguments filed on 6/08/2007 have been fully considered but they are not persuasive.

It is believed that the prior art of record reads on the claims as currently amended.

In regards to applicant's arguments that Gagnon does not teach or describe having a linear motor wherein the primary parts are movable relative to one another is not persuasive. Even though, Gagnon may describe that the primary parts are welded to the mainstays, this does not preclude the primary parts to move relative to one another as within the secondary supports (20) with the assistance of guide rollers (70, 72) as shown in figures 2 and 3. In addition, the portion that applicant argues in Col. 4 of Gagnon is in respect to the adjacent segments of the secondary parts not the primary parts as claimed.

#### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2837

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon Santana whose telephone number is (571) 272-2060. The examiner can normally be reached on Monday thru Thursday 6:30am - 3:00pm.

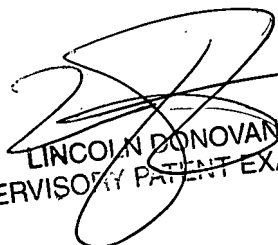
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 X.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Eduardo Colon Santana  
Patent Examiner  
Art Unit 2837

/ECS/  
September 27, 2007



LINCOLN DONOVAN  
SUPERVISORY PATENT EXAMINER